UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

No. 5:07-CV-359-F

BRYAN O'NEAL BENSON

Plaintiff,

v.

ORDER

MAGISTRATE B. FLATLEY,

Defendant.

This matter is before the court for consideration of United States Magistrate Judge David W. Daniel's Memorandum and Recommendation ("M&R"), filed on October 10, 2007 [DE-3]. The Plaintiff filed no response and this matter is now ripe for disposition.

After an independent and thorough review of the Magistrate Judge's M&R, Plaintiff's complaint, and a *de novo* review of the record, the court concludes that the M&R is correct and in accordance with the law. Accordingly, the court hereby ADOPTS the Magistrate Judge's M&R. Plaintiff's motion to proceed *in forma pauperis* is ALLOWED, this action is DISMISSED. The clerk of court is DIRECTED to close this case and remove it from the undersigned's docket.

SO ORDERED.

This 7th day of November, 2007.

VAMES C. FOX Senior United States District Judge